

March 9 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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7 Office of Disciplinary Counsel

FILED

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

8 IN THE SUPREME COURT OF THE STATE OF MONTANA

9 No. _____

10 * * * * *

11 IN THE MATTER OF DAL SMILIE,) ODC File No. 10-049
12)
13) **PETITION FOR**
14 An Attorney at Law,) **DETERMINATION**
15 Respondent.) **REGARDING LAWYER**
16) **CONVICTED OF A**
17) **CRIMINAL**
18) **OFFENSE**

19 Pursuant to Rule 23B of the *Rules for Lawyer Disciplinary Enforcement*
20 (2002), the Office of Disciplinary Counsel for the State of Montana ("ODC"),
21 hereby petitions the Court as follows:

22 1. Dal Smilie, hereinafter referred to as Respondent, was admitted to the
23 practice of law in the State of Montana in 1978, at which time he took the oath
24 required for admission, wherein he agreed to abide by the Rules of Professional
25 Conduct, the Disciplinary Rules adopted by the Supreme Court, and the highest

standards of honesty, justice and morality, including but not limited to, those outlined in parts 3 and 4 of Chapter 61, Title 37, Montana Code Annotated.

2. The Montana Supreme Court has approved and adopted the *Montana Rules of Professional Conduct* ("MRPC"), governing the ethical conduct of attorneys licensed to practice in the State of Montana, which Rules were in effect at all times mentioned in this Petition.

3. The Court of Common Pleas of Fairfield County, Ohio has provided ODC with a certified copy of the Judgment Entry of Sentence in *The State of Ohio v. Smilie*, Case No. 08-CR-294. The certified copy of the Judgment is attached hereto as Exhibit A.

4. On February 22, 2010, Respondent pled guilty to the following offenses charged in an Amended Indictment:

- A. Grand Theft by Deception in violation of §2913.02 of the Ohio Revised Code, a felony in the third degree (Count One); and,
- B. Receiving Stolen Property in violation of §2913.51 of the Ohio Revised Code, a felony in the fifth degree (Count Two).

5. The Court accepted Respondent's plea and proceeded with sentencing.

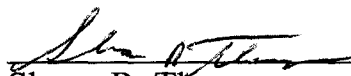
6. Respondent was sentenced to serve a prison term of three years as to count one and eight months as to count two, to be served consecutively. As to

1 count one, the Court, in lieu of prison, ordered 24 months community control with
2 conditions. The Court also assessed a \$1,000 fine and costs of the prosecution.

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4 WHEREFORE, the Office of Disciplinary Counsel prays as follows:

- 5 1. That, pursuant to Rule 23 of the Montana Rules for Lawyer
6 Disciplinary Enforcement, the Court determine whether the criminal
7 offenses of which Respondent has been convicted affect the
8 Respondent's ability to practice law;
9
10 2. If the Court determines that the convictions affect the Respondent's
11 ability to practice law, that the Court, pursuant to Rule 23B, issue an
12 order immediately suspending the lawyer from the practice of law
13 pending final disposition of a disciplinary proceeding predicated upon
14 the conviction and direct Disciplinary Counsel to prepare and file a
15 formal complaint against the Respondent predicated upon the
16 convictions, and,
17
18 3. For such other and further relief deemed necessary and proper.

19
20 RESPECTFULLY SUBMITTED this 2nd day of March, 2010.

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23 
24 Shaun R. Thompson
25 Disciplinary Counsel